

**PREMISES LIABILITY****Dangerous Condition — Slips, Trips & Falls — Falldown****Night club's poorly lit step a hazard, plaintiff alleged****Verdict** Defense**Case** Eva Ward and Thomas Ward, Her Husband v. Aer Lounge LLC, No. 106205/05**Court** New York Supreme**Judge** Emily Jane Goodman**Date** 2/20/2008**Plaintiff****Attorney(s)**

Arnold Koenig, Koenig &amp; Samberg, Mineola, NY

**Defense****Attorney(s)**

Steven H. Rosenfeld, Havkins, Rosenfeld, Ritzert &amp; Varriale, LLP, New York, NY

**Facts & Allegations**

On April 10, 2005, plaintiff Eva Marie Ward, 62, a retiree, attended a movie-premier party that was conducted at the Aer Lounge, a night club in Manhattan. She fell while descending a single step in the vicinity of the club's bar. She claimed that she sustained injuries of her face, a hip and her pelvis.

Ward sued the bar's owner, Aer Lounge LLC. She alleged that the step constituted a dangerous condition.

Ward's counsel claimed that the step was without working safety lights and that the area in which the step was located was poorly lit.

Defense counsel presented evidence that rope lighting was installed along the entire length of the step and that fiber-optic lighting and spotlights were on the ceilings and walls of the area.

**Injuries/Damages**

*fracture, pelvis; hip replacement; facial laceration; fracture, pubic ramus; aggravation of preexisting condition*

Ward was placed in an ambulance and transported to a hospital. She was treated for facial lacerations and discharged. She later complained of pelvic and hip pain and was diagnosed with a fracture of her pubic ramus. Ward also claimed that she sustained an exacerbation of a preexisting arthritic condition of her right hip, requiring hip-replacement surgery.

The parties stipulated that Ward's medical expenses totaled \$7,000. Ward sought recovery of that amount and damages for her past and future pain and suffering. Her husband sought recovery of damages for his loss of consortium. The Wards sought a total of \$350,000.

Defense counsel submitted evidence of the severity of Ward's arthritis prior to the fall, and Ward's own physician testified that she would have required a hip replacement even if she had not fallen, but that the fall accelerated the need for the procedure.

**Result**

The jury rendered a defense verdict.

**Plaintiff(s)****Eva Marie Ward****Thomas Ward**

**Demand** \$300,000 (total, both plaintiffs)

**Offer** \$15,000 (total, both plaintiffs)

**Insurer(s)**

Capitol Specialty Insurance Corp.

**Trial Details**

**Trial Length:** 6 Days

**Jury Deliberations:** 3 Hours

**Jury Poll:** 6-0

**Jury Composition:** 3 male, 3 female

**Plaintiff**

**Expert(s)**

Joseph Feinberg, M.D., orthopedics, New York, NY (Arnold Koenig)

**Defense**

**Expert(s)**

William J. Kulak, M.D., orthopedics, New York, NY (Steven H. Rosenfeld)

**Editor's Note**

This report is based on information that was provided by defense counsel. Plaintiffs' counsel did not respond to the reporter's phone calls.

**Written By Eddie Vega**

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